

VILLAGE OF CROTON-ON-HUDSON
BOARD OF TRUSTEES

LOCAL LAW INTRODUCTORY __ OF 2022

A LOCAL LAW TO AMEND THE ETHICS LAW OF THE CODE OF THE VILLAGE
OF CROTON-ON-HUDSON, CHAPTER 20

BE IT ENACTED by the Board of Trustees of the Village of Croton-on-Hudson, Westchester County, New York, as follows:

Section One: The existing Chapter 20 of the Code of the Village of Croton-on-Hudson, “Ethics, Code of”, is hereby repealed and replaced to read as follows:

§ 20-1 Purpose.

The Board of Trustees of the Village of Croton-on-Hudson recognizes that it must establish high standards of ethical conduct for public officers, board members, and employees of the Village so as to promote public confidence in the integrity of local government. Public officers and employees of the Village hold their positions to serve and to benefit the public and not for obtaining unwarranted personal or private gain in the exercise and performance of their official functions. It is the purpose of this chapter to afford public officers and employees of the Village clear guidance on ethical standards and to serve as a guide for clear and reasonable official conduct.

§ 20-2. Applicability

This Code is enacted pursuant to § 806 of the General Municipal Law of the State of New York and § 10 of the Municipal Home Rule Law. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 20-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOARD

The Village Board of Trustees and any municipal administrative board (e.g., Planning Board, Water Control Commission, Zoning Board of Appeals), commission or other agency or body comprised of two or more municipal officers or employees.

BOARD MEMBER

A member of any Village Board

CODE

This Code of Ethics.

CONTRACT

Any claim, account or demand against or agreement with a municipality, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance, or other proceeding where such publication is required or authorized by law.

INDIVIDUAL OFFICER

Any mayor, trustee, village justices, village clerk, treasurer, or assessor of the Village of Croton-on-Hudson, and the deputies thereof.

INDIVIDUAL EMPLOYEE

Any individual employed by the Village of Croton-on-Hudson who is not an individual officer or a member of any Board.

INTEREST

A direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse or a member of his or her household is an owner, partner, member, director, officer or employee or directly or indirectly owns or controls more than 5% of the organization, outstanding stock.

MUNICIPALITY

The Village of Croton-on-Hudson. The word "municipal" refers to the municipality.

MUNICIPAL OFFICER OR EMPLOYEE

An officer or employee of the Village of Croton-on-Hudson, whether paid or unpaid, and whether appointed, hired, or elected, including all decision-making officers, employees, and members of any decision-making board, body, council, commission, agency, department, or committee. No person shall be deemed a municipal officer or employee solely by reason of being a volunteer firefighter or civil defense volunteer, except the Fire Chief or an Assistant Fire Chief.

RELATIVE

A spouse, domestic partner, parent, step-parent, sibling, step-sibling, step-sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin or household member of municipal officer or employee and individuals having any of these relationships to the spouse of the officer or employee.

§ 20-4 Standards of Conduct.

Every municipal officer or employee shall be subject to and abide by the following standards of conduct:

Commented [TR1]: The proposed code generally groups together municipal officers and employees, which is defined below.

However, the proposed code indicates that the Village is interested in setting different standards that depend on whether someone is an officer or an employee. (See Section 20-4C3). Therefore, to avoid confusion, I think there should be definitions for these terms.

Commented [TR2]: This language is used in Sec 800 and a lot of codes include it. The Village may want to discuss including it.

**Draft Ethics Law
October 21, 2022**

A. General prohibition. A municipal officer or employee shall not use his or her official position or office, or fail to take any discretionary action, in a manner in which he or she knows, or has reason to know, may result in a personal, financial or material benefit to:

1. The Village officer or employee;
2. His or her outside employer or business;
3. A customer or client;
4. A person from whom the municipal officer or employee has received election campaign contributions of more than \$1,000 in the aggregate during the past 12 months;
5. A relative; or
6. Any firm, corporation, association, partnership or other organization in which the Village officer or employee, or a relative, serves as an officer or director, whether compensated or uncompensated or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock or has authority to decide upon grants or other monetary benefits.

B. Specific Village officers and employees

Commented [TR3]: The Village may want to consider an additional standard for certain employees, e.g., those that issue permits or hold professional licenses

C. Recusal and abstention.

1. A municipal officer or employee shall promptly recuse himself or herself from acting on any matter before the Village, including discussing the matter and participating in voting, when acting or failing to act on the matter may benefit the persons listed in § 20-4(A), financially or otherwise, or give the reasonable appearance of a conflict of interest or impropriety.
2. Whenever a municipal officer or employee is required to recuse himself or herself under this Code, he or she:
 - a. Must promptly inform his or her superior, if any;
 - b. Must promptly file with the municipal clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a Board, must state the information upon the public record of the Board; and
 - c. Must immediately refrain from participating further in the matter.
3. they must do so on the record and/or in writing and refrain from any further

participation in the matter.

4. If this section prohibits a municipal officer or employee from exercising or performing a power or duty:
 - a. If the power or duty is vested in a Board Member, then the power or duty shall be exercised or performed by the remaining members of the Board who are not subject to recusal.
 - b. If the power or duty is vested in an individual officer, then the power or duty shall be exercised or performed by his or her deputy. If the individual officer or employee does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
 - c. If the power or duty is vested in an individual employee, he or she shall refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another individual to exercise or perform the duty.

Commented [TR4]: This language was in the sample code provided - the Village may want to consider having anyone other than the conflicted officer delegate who will perform the function. I think it might appear improper if someone who cannot participate due to a conflict is delegating who can act in their stead.

D. Gifts and solicitations

1. No municipal officer or employee shall directly or indirectly solicit any gifts, whether in the form of money, services, travel, entertainment, hospitality, thing, or promise, or in any other form, or accept any gifts from any person, partnership, corporation, or other entity which has a business relationship with the Village of Croton-on-Hudson.
2. No municipal officer or employee shall, directly or indirectly, solicit any gift, contribution, or donation from any person on Village property.
3. No municipal officer or employee shall, directly or indirectly, solicit any gift, contribution, or donation from any subordinate employee or board member.
4. No municipal officer or employee may accept or receive any gift or gifts from the same donor, having annual aggregate value of \$75 or more when:
 - i. The gift could or reasonably appear to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
 - ii. The gift could or reasonably appear intended as a reward for any official action on the part of the officer or employee.
5. Valuation of gifts

- i. The value of the gift is the gift's fair market value, determined by the retail cost of the item or a comparable item, at the time it is sought to be given.
- ii. The fair market value of a ticket or voucher entitling the holder to food, refreshments, entertainment, or any other benefit is determined by the face value of the ticket or the actual cost to the donor, whichever is greater.
- iii. Determination of whether multiple gifts from a single donor exceeds \$75 must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

6. Gifts intended to influence or reward

- i. A gift to a municipal officer or employee is presumed to be intended to influence the officer or employee in their exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
- ii. A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has sought municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve (12) months.

7. The term "gift" does not prohibit any other gift, including:

- i. Gifts made to the municipality;
- ii. Gifts from a person with a family or personal relationship with the municipal officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
- iii. Gifts given on special occasions, such as marriage, holidays, illness, or retirement, which are modest, reasonable, and customary;
- iv. Unsolicited promotional items having no substantial resale value, such as pens, pencils, note pads, and calendars;
- v. Awards and plaques having a value of \$75 or less which are publicly

presented in recognition of public service or for other services rendered to the community; or

- vi. Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals or refreshments are made available to all participants.

Commented [TR5]: The Village should also consider things like complimentary attendance at events where the official is attending to perform a ceremonial function;

E. Political solicitations and campaign activities.

1. No municipal officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to participate in an election campaign or to make, or promise to make, any political contribution, whether by gift of money, service, or thing of value.
2. No municipal officer or employee may act or decline to act in relation to appointing, hiring, promoting, discharging, or disciplining, or in any manner changing the official rank, status, or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, because of the giving or withholding or neglecting to make any contribution of money or service of any other valuable thing for any political purpose.
3. No employee shall engage in political campaign activities during the official hours of his or her Village of Croton-on-Hudson workday.

F. Nepotism.

1. Except as otherwise required by law:
 - i. No municipal officer or employee, either individually or as a member of a board, may participate in any decision to appoint, hire, promote, discipline, or discharge a relative for any position at, for, or within the municipality or a municipal board.
 - ii. No municipal officer or employee may audit or supervise a relative in the performance of the relative's official powers or duties.
2. An employee currently employed prior to the adoption of this chapter shall be exempt.

G. Disclosure of confidential information.

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers or duties.

H. Disclosure of interest in legislation and official action.

Commented [TR6]: This section is required by the GML

1. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to the persons listed in § 20-4(A), the municipal officer shall disclose in writing the nature of the interest.
2. The disclosure shall be made at the earlier of when the matter requiring disclosure first comes before the municipal officer or employee or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure.
3. In all cases, the disclosure shall be filed with the Village Manager's Office. Any disclosure related to a member of a board shall be made publicly at a meeting of the board and be included in the official record of the meeting.

I. Interest in Village contracts.

Commented [TR7]: There should be a definition for "contract" - I added the one that the GML uses

1. No municipal officer or employee may have an interest in a contract that is prohibited by § 801 of the General Municipal Law.
2. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by § 803 of the General Municipal Law.

J. Private employment in conflict with official duties.

Commented [TR8]: This section is required by the GML

1. No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional, or other types of services, when the employment:
 - i. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 20-4(C) of this Code; or
 - ii. Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee; or
 - iii. Requires representation of a person or organization other than the municipality in connection with litigation, negotiations, or any other matters to which the municipality is a party; or
 - iv. Otherwise violates § 805-a(1)(c)-(d) of the General Municipal Law.

**Draft Ethics Law
October 21, 2022**

2. A municipal officer or employee may not represent any other person in any matter that person has before the municipality nor represent any other person in any matter against the interests of the municipality.
3. A municipal officer or employee may not appear before any agency of the municipality, except on his or her own behalf or on behalf of the municipality.

K. Future employment

Commented [TR9]: A future employment section is required by the GML

1. No municipal officer or employee may ask for, seek, or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the ninety (90) days following final disposition of the matter.
2. No municipal officer or employee, for the one-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department, or comparable organizational unit for which he or she serves.
3. No municipal officer or employee at any time after serving as a municipal officer or employee may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

L. Investments in conflict with official duties.

1. No municipal officer or employee may acquire the following investments:
 - i. Investments that can be reasonably expected to require more than sporadic recusal and abstention under § 20-4(C) of this Code; or
 - ii. Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers or duties; or
 - iii. Investments from any Village of Croton-on-Hudson auction if the municipal employee or officer is in the position to negotiate, prepare, authorize, or approve the contract for the sale upon which he or she is bidding.
2. This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:

- i. Real property located within the municipality and used as his or her personal residence; or
- ii. Less than 5% of the stock of a publicly traded corporation; or
- iii. Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

M. Treatment of Public.

A municipal officer or employee of the Village of Croton-on-Hudson shall treat all members of the public, whether a person, firm, corporation, or other organization, with respect and in a professional manner, with equal consideration and without special advantage in carrying out his or her official duties.

§ 20-5 Exceptions.

A. This code's prohibition on use of a municipal position (§ **20-4A**), disclosure requirements (§ **20-4G-H**) and requirements relating to recusal and abstention (§ **20-4C**) shall not apply with respect to the following matters:

- (1) Adoption of the municipality's annual budget.
- (2) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - (a) All municipal officers or employees;
 - (b) All residents or taxpayers of the municipality or an area of the municipality; or
 - (c) The general public.
- (3) Any matter that does not require the exercise of discretion.

B. Recusal and abstention shall not be required with respect to any matter:

- (1) Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by § **36-7** of this code.
- (2) Which comes before a municipal officer when the officer would be prohibited from acting by § **20-4C** of this code and the matter cannot be lawfully delegated to another person.

§ 20-6 Personal representations and claims permitted.

This code shall not be construed as prohibiting a municipal officer or employee from:

- A. Representing himself or herself, or his or her spouse or minor children, before the municipality; or

- B. Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

§ 20-7 Use of municipal resources.

- A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel and the municipality's money, vehicles, equipment, materials, supplies or other property.
- B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 - (1) Any use of municipal resources authorized by law or municipal policy; or
 - (2) The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or
 - (3) The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 20-8 Posting and distribution of code.

- A. Pursuant to New York General Municipal Law § 806, the Village Manager shall cause a copy of this Code to be distributed to each municipal officer and employee upon the adoption of this chapter and at the time of commencement of each person's service in each new capacity. The code, and any amendment thereto, shall be posted publicly and conspicuously in each building under municipal control. The code must be posted within 10 days following the date on which the code takes effect. An amendment to the code must be posted within 10 days following the date on which the amendment takes effect.
- B. The failure to post this code, or an amendment to the code, does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this Code of Ethics, or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

Commented [TR10]: This is required by the GML

§ 20-9 Penalties for offenses.

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

Commented [TR11]: GML permits municipalities to file annual disclosure statements - the Village should discuss whether they want to include this requirement.

Section Two: Severability. If any section, subsection, clause, phrase, or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Draft Ethics Law
October 21, 2022**

Section Three: Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.